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EXAMINER

DAYE, CHELCIE L

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/805,976	Applicant(s) PEDERSEN, CLAUS	
	Examiner CHELCIE DAYE	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-17,20-28 and 34-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-17,20-28 and 34-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is issued in response to applicant's amendment filed December 07, 2009.
2. Claims 1-7, 9-17, 20-28, and 34-45 are presented. No claim added and claims 8, 18, 19, and 29-33 are cancelled.
3. Claims 1-7, 9-17, 20-28, and 34-45 are pending.
4. Applicant's arguments filed December 07, 2009, have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-3, 9-10, 16-17, 20-23, 26-28, and 34-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagin (US Patent No. 6,128,661) filed April 10, 1998, in view of Kotzin (US Patent Application No. 2005/0198376) provisional filed January 2, 2004, further in view of Mousseau (US Patent No. 7,209,949) filed April 6, 2001.**

Regarding Claims 1, 21, and 28, Flanagin discloses a method comprising:

transferring service settings to a first device from a second device, wherein the first and second devices each have the same predetermined hierarchical data structure (Fig.1; column 3, lines 39-43, Flanagan), where transferring comprises;

 sending a data transfer request from the first device to the second device (columns 2-3, lines 66-67 and 1-19, respectively, Flanagan), comprising data descriptive of service settings for a first service (column 4, lines 7-18, Flanagan).

 However, Flanagan is not as detailed with the service settings being provisioned by a service provider. On the other hand, Kotzin discloses provisioning by the service provider ([0021-0022], Kotzin). Flanagan and Kotzin are analogous art because they are from the same field of endeavor of transferring information from one electronic device to another. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Kotzin's teachings into the Flanagan system. A skilled artisan would have been motivated to combine as suggested by Kotzin at paragraphs [0006-0007], in order to allow the content to be transferred with ease in an intuitive manner, such that it can be beneficial for the owner.

 However, Flanagan is not as detailed with respect to an identification of a root node of the hierarchical data structure and a first leaf node that stores a particular file. On the other hand, Mousseau discloses an identification of a root node of the hierarchical data structure and a first leaf node that stores a particular file (Figs. 18A-B; columns 19-20, lines 57-67 and 1-7; respectively,

Mousseau). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Mousseau's teachings into the Flanagin and Kotzin system. A skilled artisan would have been motivated to combine in order to show a detailed view of the level of dependency throughout the hierarchy.

Therefore, the combination of Flanagin in view of Kotzin, further in view of Mousseau, disclose receiving at the first device the data descriptive of service provider provisioned service settings stored at the first leaf node of the hierarchical data structure of the second device from the second device (column 4, lines 7-22, Flanagin); storing the received data at the first leaf node of the hierarchical data structure of the first device (column 3, lines 1-13, Flanagin); and using, at the first device, the data stored at the first leaf node of the hierarchical data structure as settings for a first service (column 4, lines 7-11, Flanagin).

Regarding Claims 2 and 22, the combination of Flanagin in view of Kotzin, further in view of Mousseau, disclose a method wherein receiving data comprises receiving a data file stored at the first leaf node of the hierarchical data structure that is associated with an identifier stored in a first smart card ([0028], Kotzin)¹.

Regarding Claims 3 and 23, the combination of Flanagin in view of Kotzin, further in view of Mousseau, disclose a method wherein the received data file comprises the identifier ([0023], Kotzin).

¹ Examiner Notes: Examples of memory that is stored within the devices are subscriber identity module (SIM card), flash card, and secure digital card (see [0023]).

Regarding Claim 9, the combination of Flanagin in view of Kotzin, further in view of Mousseau, disclose a method wherein the received data comprises settings controlled by the service provider of the first service ([0021], Kotzin).

Regarding Claim 10, the combination of Flanagin in view of Kotzin, further in view of Mousseau, disclose a method wherein the received data includes data identifying user selections made during user configuration of the first service ([0018], Kotzin).

Regarding Claim 16, the combination of Flanagin in view of Kotzin, further in view of Mousseau, disclose a method further comprising forming a direct connection between first and second devices and using the direct connection for sending the data transfer request and receiving data from the second device to the first device ([0038], Kotzin).

Regarding Claim 17, the combination of Flanagin in view of Kotzin, further in view of Mousseau, disclose a method wherein the direct connection is a wireless connection ([0038], Kotzin).

Regarding Claim 20, the combination of Flanagin in view of Kotzin, further in view of Mousseau, disclose a method comprising:

transferring service settings to a first device from a second device, wherein the first and second devices each have the same predetermined hierarchical data structure (Fig.1; column 3, lines 39-43, Flanagan), comprising a first leaf node for storing settings for accessing a first service and a second leaf node for storing settings for accessing a second service:

sending a data transfer request from the first device to the second device (columns 2-3, lines 66-67 and 1-19, respectively, Flanagan), comprising an identification of a root node and the first leaf node (Figs. 18A-B; columns 19-20, lines 57-67 and 1-7; respectively, Mousseau);

transferring the data content stored at the identified first leaf node of the hierarchical data structure from the second device to the first device (column 4, lines 7-22, Flanagan), the data content comprising data descriptive of service provider provisioned service settings for the first service ([0021-0022], Kotzin);

storing the transferred data content at the first leaf node of the hierarchical data structure of the first device (column 3, lines 1-13, Flanagan);

sending a data transfer request identifying the second leaf node of the hierarchical data structure from the first device to the second device (columns 2-3, lines 66-67 and 1-19, respectively, Flanagan);

transferring the data content stored at the identified second leaf node of the hierarchical data structure from the second device to the first device (column 4, lines 7-22, Flanagan), the data content comprising data descriptive of service

provider provisioned service settings for the second service ([0021-0022], Kotzin);

storing the transferred data content at the second leaf node of the hierarchical data structure of the first device (column 3, lines 1-13, Flanagan); and using, at the first device, the settings stored at the first leaf node of the hierarchical data structure as settings for the first service and the settings stored at the second leaf node of the hierarchical data structure as settings for the second service (column 4, lines 7-11, Flanagan).

Regarding Claims 26, 34, 40, and 43 the combination of Flanagan in view of Kotzin, further in view of Mousseau, disclose an apparatus comprising:

a radio transceiver ([0040], Kotzin);

a memory for storing data according to a predetermined hierarchical data structure (column 3, lines 1-5 and column 7, lines 18-22, Flanagan);

a processor for reading data from the memory (column 7, lines 23-26, Flanagan), wherein the data read from a first leaf node of the hierarchical data structure is usable for providing a telecommunications service (column 4, lines 7-24, Flanagan) via the radio transceiver ([0040], Kotzin), the data comprising data descriptive of service provider provisioned service settings for the telecommunications service ([0021-0022], Kotzin);

a wireless receiver for receiving a data transfer request comprising an identification of a root node of the hierarchical data structure and the first leaf

node (columns 19-20, lines 57-67 and 1-7; respectively, Mousseau), wherein the processor responds to the data transfer request to read data from the first leaf node of the hierarchical data structure ([0018], [0023], lines 23-24, and [0044], Kotzin); and

a wireless transmitter for transmitting the data descriptive of service provider provisioned service settings for the telecommunications service, the data read from the memory in response to the data transfer request ([0018], [0023], lines 23-24, and [0044], Kotzin).

Regarding Claims 27 and 35, the combination of Flanagan in view of Kotzin, further in view of Mousseau, disclose an apparatus further comprising a smart card housing for a smart card ([0023], Kotzin) that enables the device to participate in a telecommunications network ([0041], Kotzin), wherein the processor is operable to read data from the first leaf node of the hierarchical data structure that depends upon the identity of the housed smart card ([0028], Kotzin).

Regarding Claims 36 and 37, the combination of Flanagan in view of Kotzin, further in view of Mousseau, disclose a computer-readable medium storing a computer program comprising computer program instructions for causing a computer to perform the method (column 5, lines 4-8, Flanagan).

Regarding Claims 38, 39, 42, and 45, the combination of Flanagan in view of Kotzin, further in view of Mousseau, disclose an apparatus where said radio transceiver comprises a cellular radio transceiver ([0023] and [0040], Kotzin).

Regarding Claims 41 and 44, the combination of Flanagan in view of Kotzin, further in view of Mousseau, disclose the apparatus where the data of said at least one file further comprises data that identifies selections made by a user during configuration of the telecommunications service ([0018], Kotzin).

7. Claims 5-7, 13-15, and 25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagan (US Patent No. 6,128,661) filed April 10, 1998, in view of Kotzin (US Patent Application No. 20050198376) provisional filed January 2, 2004, further in view of Mousseau (US Patent No. 7,209,949) filed April 6, 2001, and further in view of Kock (US Patent Application No. 2004/0185885) filed January 30, 2004.

Regarding Claims 5 and 6, the combination of Flanagan in view of Kotzin, further in view of Mousseau, disclose all of the claimed subject matter as stated above. However, Flanagan in view of Kotzin, further in view of Mousseau, are not as detailed with respect to the received data file being automatically used, at the first device, as settings for a first service when the first smart card is used with the first device. On the other hand, Kock discloses the received data file being

automatically used, at the first device, as settings for a first service when the first smart card is used with the first device ([0052], Kock). Flanagin, Kotzin, and Kock are analogous art because they are from the same field of endeavor of communication architecture on mobile devices. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Kock's teachings into the Flanagin, Kotzin, and Mousseau system. A skilled artisan would have been motivated to combine in order to provide a system that allows data messages to be exchanged between devices having distinct capabilities while avoiding the need to convert the data messages.

Regarding Claim 7, the combination of Flanagin in view of Kotzin, further in view of Mousseau, and further in view of Kock, disclose a method further comprising transferring a smart card from the second device to the first device before the step of using the data stored as settings for the first service ([0052], Kock).

Regarding Claim 13, the combination of Flanagin in view of Kotzin, further in view of Mousseau, and further in view of Kock, disclose a method wherein the first and second devices are mobile telephones ([0040], Kock).

Regarding Claim 14, the combination of Flanagan in view of Kotzin, further in view of Mousseau, and further in view of Kock, disclose a method wherein the first service is a telecommunications service (Abstract, Kock).

Regarding Claim 15, the combination of Flanagan in view of Kotzin, further in view of Mousseau, and further in view of Kock, disclose a method wherein the first service is one of: messaging, internet access or email ([0041], Kock).

Regarding Claim 25, the combination of Flanagan in view of Kotzin, further in view of Mousseau, and further in view of Kock, disclose a method further comprising using, at the second device, the settings stored at the first portion of the hierarchical data structure as settings for the first service (column 3, lines 44-52, Flanagan) when the first smart card is used with the second device ([0052], Kock).

8. Claims 4 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagan (US Patent No. 6,128,661) filed April 10, 1998, in view of Kotzin (US Patent Application No. 20050198376) provisional filed January 2, 2004, further in view of Mousseau (US Patent No. 7,209,949) filed April 6, 2001, and further in view of Mirouze (US Patent Application No. 20040023664) filed July 3, 2002.

Regarding Claims 4 and 24, the combination of Flanagin in view of Kotzin, further in view of Mousseau, disclose all of the claimed subject matter as stated above. However, Flanagin in view of Kotzin, further in view of Mousseau, are silent with respect to the identifier being an international mobile subscriber identity. On the other hand, Mirouze discloses the identifier being an international mobile subscriber identity ([0085], Mirouze). Flanagin, Kotzin, Mousseau, and Mirouze are analogous art because they are from the same field of endeavor of mobile communication devices. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Mirouze's teachings into the Flanagin, Kotzin, and Mousseau system. A skilled artisan would have been motivated to combine as suggested by Mirouze at [0005], to offer mobile users functions that are more ergonomic than those offered by a simple mobile terminal.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagin (US Patent No. 6,128,661) filed April 10, 1998, in view of Kotzin (US Patent Application No. 20050198376) provisional filed January 2, 2004, further in view of Mousseau (US Patent No. 7,209,949) filed April 6, 2001, and further in view of Cooper (US Patent No. 5,961,588) Filed February 21, 1997.

Regarding Claim 11, the combination of Flanagin in view of Kotzin, further in view of Mousseau, disclose all of the claimed subject matter as stated above.

However, Flanagan in view of Kotzin, further in view of Mousseau, are not as detailed with respect to the user of the first device unable to amend the received data. However, Cooper discloses the user of the first device unable to amend the received data (column 2, lines 9-12, Cooper). Flanagan, Kotzin, Mousseau, and Cooper are analogous art because they are from the same field of endeavor of telecommunication system/wireless systems. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Cooper's teachings into the Flanagan, Kotzin, and Mousseau system. A skilled artisan would have been motivated to combine in order to prohibit an unauthorized user from altering the data. Thereby, making sure the information is maintained and proper.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagan (US Patent No. 6,128,661) filed April 10, 1998, in view of Kotzin (US Patent Application No. 20050198376) provisional filed January 2, 2004, further in view of Mousseau (US Patent No. 7,209,949) filed April 6, 2001, and further in view of Novak (US Patent No. 6,882,659) provisional filed May 10, 2000.

Regarding Claim 12, the combination of Flanagan in view of Kotzin, further in view of Mousseau, disclose all of the claimed subject matter as stated above. However, Flanagan in view of Kotzin, further in view of Mousseau, are not as detailed with respect to the first device being an OBEX client, the second device

being an OBEX server, and the data transfer request comprising a GET request packet. On the other hand, Novak discloses the first device being an OBEX client, the second device being an OBEX server (columns 4-5, lines 57-67 and 1-12, respectively, Novak), and the data transfer request comprising a GET request packet (column 5, lines 50-63, Novak). Flanagan, Kotzin, Mousseau, and Novak are analogous art because they are from the same field of endeavor of synchronization of mobile devices. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Novak's teachings into the Flanagan, Kotzin, and Mousseau system. A skilled artisan would have been motivated to combine in order to provide a communications protocol that facilitates the exchange of binary objects between devices. As a result, as suggested by Novak at column 3, lines 14-21, allowing for a desirable synchronization protocol that operates in a connectionless environment.

Response to Arguments

Applicant argues, Flanagan does not suggest "hierarchical data structure".

Examiner respectfully disagrees. To begin, a data structure is merely the organization of data (and its storage allocation in a computer); thus a hierarchical data structure is a structure of data having several levels of arranged information in a tree-like structure. With that being said, Flanagan teaches mobile devices and a desktop computer, wherein the mobile devices and desktop computer includes application

programs and a store (used to store objects), wherein it is desirable that at least some of the objects on the respective stores be transferred in order for the user to access the same information regardless as to whether the mobile device or desktop computer is being used. Also, Flanagan teaches wherein the mobile devices include the same application programs that correspond to the application programs residing on the desktop computer (see col.3, lines 1-20); thus, disclosing the devices each having the same hierarchical data structure. Also an illustrative example can be seen within Fig. 1 of Flanagan.

Applicant argues, Flanagan does not disclose “data descriptive of service provider provisioned service settings”, due to the fact that Flanagan’s services (i.e. Synchronization Service or file conversion service) do not read on the “service settings” as claimed.

Examiner respectfully disagrees. To begin, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed.Cir.1986). In particular, Flanagan was relied upon for the teaching of the service settings; however, the incorporation of Kotzin was relied upon for the disclosure of the setting being provisioned by a service provider. Next, applicant believes that the service settings discussed within Flanagan broadly read upon the claimed "service settings", especially since the claims do not specify any particular

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service settings. For example, the applicant argues on page 17 of their Remarks that *“the service settings disclosed in claim 1 are “internet access, messaging services, remote storage services, e-mail, etc.” (pg.1, lines 21-22, Application)”*. None of these examples are mentioned within the disclosed claim 1. Thus, Flanagin’s service settings do in fact read on the claimed “service settings”.

Applicant argues Kotzin is concerned with transferring content rather than “service settings”.

Examiner respectfully disagrees. To begin, Flanagin was original relied upon for the disclosure of the service settings (see col.3, lines 48-52 and col.4, lines 7-22). However, Kotzin was incorporated to teach that the service settings were provisioned by the service provider, and this is taught at paragraphs [0021-0022], wherein *“The second device then retrieves the content from either the first device or the content provide...the source may also depend on the operations of the service provider serving the device which is receiving or sending the content...If the content is a relatively small set of information, such as a ring tone, contact information or an icon for example, then the content may be transferred directly from the first device to the second device. Larger files, such as media and multimedia files including audio, music, and motion pictures may be transferred from the content provider”*. The preceding excerpt teaches that a service provider or content provider is the one provisioning off the service settings from one device to another. Thus, the combination of Flanagin in view of Kotzin, disclose service settings and provisioning the service settings by a service provider. Even further, in response to applicant's specific argument that the "content" used in Kotzin is not concerned with the claimed subject matter of

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“service settings” is improper since for one it would have been obvious to one of ordinary skill in the art to understand that the service provider described within Kotzin would have the ability to provision the service settings described within Flanagan. Also, for argument sake Kotzin does discuss an example of the content being larger files such as media and multimedia files including audio, music, and motion pictures (see [0022]), wherein the multimedia files correspond to the service settings as described within applicant’s own specification as being for multimedia messaging (see [0023-0024]); since it is understood by one of ordinary skill in the art at the time of the invention that if the reference can have multimedia files of different types of information/data then one of the types of information could also be multimedia messaging.

Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHELCIE DAYE whose telephone number is (571) 272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye
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March 9, 2010

/Apu M Mofiz/
Supervisory Patent Examiner, Art Unit 2161